

3 ENGROSSED

4 House Bill No. 1680

5 As Amended

6 ENGROSSED HOUSE BILL NO. 1680 - By: JOHNSON, HYMAN, ROAN, SHOEMAKE,
7 WALKER, HILLIARD, McMULLEN, COVEY, HICKMAN, McCARTER and WINCHESTER
8 of the House and GUMM, JOHNSON and LAWLER of the Senate.

9 [revenue and taxation - amending 68 O.S., Section 2357.25 -
10 tax credits - agricultural cooperatives and associations -
11 codification - effective date]

12 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.25, is
13 amended to read as follows:

14 Section 2357.25 A. There shall be allowed a credit against the
15 tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~
16 this title for direct investments by Oklahoma agricultural producers
17 in Oklahoma producer-owned agricultural processing cooperatives,
18 Oklahoma producer-owned agricultural processing ventures, or
19 Oklahoma producer-owned agricultural processing marketing
20 associations created and designed to develop and advance the
21 production, processing, handling and marketing of agricultural
22 commodities grown, made or manufactured in Oklahoma. For calendar
23 years 1997 and 1998, the amount of the credit shall be thirty
24 percent (30%) of the amount of the investment by the Oklahoma

1 agricultural producer in Oklahoma producer-owned agricultural
2 processing cooperatives, ventures, or marketing associations.

3 For calendar year 1999, and all subsequent years, the credit
4 percentage, not to exceed thirty percent (30%), shall be adjusted
5 annually so that the total estimate of credits does not exceed ~~One~~
6 ~~Million Dollars (\$1,000,000.00)~~ Two Million Dollars (\$2,000,000.00)
7 annually. The formula to be used for the percentage adjustment
8 shall be thirty percent (30%) times ~~One Million Dollars~~
9 ~~(\$1,000,000.00)~~ Two Million Dollars (\$2,000,000.00) divided by the
10 credits claimed in the preceding year. In no event shall the credit
11 be claimed more than once by a taxpayer each taxable year.

12 In the event the total tax credits authorized by this section
13 exceed ~~One Million Dollars (\$1,000,000.00)~~ Two Million Dollars
14 (\$2,000,000.00) in any calendar year, the Oklahoma Tax Commission
15 shall permit any excess over ~~One Million Dollars (\$1,000,000.00)~~ Two
16 Million Dollars (\$2,000,000.00) but shall factor such excess into
17 the percentage adjustment formula for subsequent years.

18 B. If the credit allowed pursuant to this section exceeds the
19 amount of state income taxes due or if there are no state income
20 taxes due on the income of the taxpayer, the amount of credit
21 allowed but not used in any taxable year may be carried forward as a
22 credit against subsequent income tax liability for a period not

1 exceeding six (6) years following the year in which the investment
2 was originally made.

3 C. The Oklahoma Tax Commission shall have the authority to
4 prescribe forms for purposes of claiming the credit authorized by
5 this section. The Oklahoma Tax Commission shall be authorized to
6 conduct an investigation of the relevant facts as may be required in
7 order to verify the eligibility of a claimant to receive a credit
8 for any applicable income tax year.

9 D. 1. For any taxable year during which a taxpayer sells or
10 otherwise disposes of the ownership interest for which a tax credit
11 has previously been allowed to the taxpayer or for which a tax
12 credit will be allowed to the taxpayer for the year in which the
13 sale or other disposition of the ownership interest is made, the
14 taxpayer shall be required to reduce the cost of the ownership
15 interest in the Oklahoma producer-owned agricultural processing
16 cooperative, venture, or marketing association, as reported upon the
17 applicable income tax return, by the amount of the tax credit which
18 has previously been granted or for which the taxpayer is claiming
19 credit if the credit is allowable for the year during which the sale
20 or other disposition is made.

21 2. If a taxpayer sells or otherwise disposes of an ownership
22 interest in the Oklahoma producer-owned agricultural processing
23 cooperative, venture, or marketing association for which the tax

1 credit authorized by this section may be taken in a taxable year
2 following the year in which the ownership interest in the Oklahoma
3 producer-owned agricultural processing cooperative, venture, or
4 marketing association is sold or otherwise disposed of, the credit
5 authorized by this section shall be reduced to account for the prior
6 sale or other disposition.

7 E. The tax credit authorized by this section shall not be
8 available or taken for any calendar year during which the claimant
9 of the credit received any incentive payments pursuant to the
10 Oklahoma Quality Jobs Program Act or the Saving Quality Jobs Act.

11 F. As used in this section:

12 1. "Direct investment" means the payment of money in an
13 Oklahoma producer-owned agricultural processing cooperative,
14 venture, or marketing association or the transfer of any form of
15 economic value, whether tangible or intangible, other than money;

16 2. "Oklahoma producer-owned agricultural processing
17 cooperative" means a legal entity in the nature of a partnership or
18 business undertaking agricultural transactions or agricultural
19 commercial enterprises for mutual profit which are owned and
20 controlled by Oklahoma agricultural producers. An Oklahoma
21 producer-owned agricultural processing cooperative requires a
22 community of interest in the performance of the undertaking,
23 transaction or enterprise, a right to direct and govern the policy

1 in connection therewith and the duty, which may be altered by
2 agreement, to share both in profit and losses. The term does not
3 include a cooperative that provides only, and nothing more than,
4 storage, cleaning, or transportation of agricultural commodities;

5 3. "Oklahoma producer-owned agricultural processing venture"
6 means a legal entity in the nature of a corporation or company
7 organized to invest in or operate an agricultural commodity
8 processing facility operated primarily for the processing or
9 production of marketable products from agricultural commodities.
10 The term shall include a dairy operation that requires a depreciable
11 investment of at least Two Hundred Fifty Thousand Dollars
12 (\$250,000.00) and which produces milk from dairy cows. The term
13 does not include a venture that provides only, and nothing more
14 than, storage, cleaning, or transportation of agricultural
15 commodities;

16 4. "Oklahoma producer-owned agricultural processing marketing
17 association" means a legal entity owned by Oklahoma producers of
18 agricultural commodities and organized to jointly market
19 agricultural commodities and/or natural resource-based recreational
20 activities, facilitate the marketing process and to promote and
21 stimulate the processing, sales, and marketing of agricultural
22 commodities. The term does not include a marketing association that
23 provides only, and nothing more than, storage, cleaning, or

1 transportation of agricultural commodities and/or marketing of
2 natural resource-based recreational activities;

3 5. "Oklahoma agricultural producer" means any person who
4 produces agricultural commodities in this state;

5 6. "Agricultural commodities" means a farm or ranch product,
6 including but not limited to, wheat, corn, soybeans, cotton, timber,
7 cattle, hogs, sheep, horses, poultry, animals of the families
8 bovidae, cervidae and antilocapridae or birds of the ratite group
9 produced in farming or ranching operations or a product of such crop
10 or livestock in its unmanufactured state such as ginned cotton,
11 wool-dip, maple syrup, milk and eggs, or any other commodity listed
12 under any Industry Group Number under Major Group 20 of Division D
13 of the Standard Industrial Classification (SIC) Manual; and

14 7. "Dairy operation" means and includes equipment and
15 facilities to store and prepare feed, dairy cows, milking parlors,
16 bulk cooling tanks, buildings, and all such depreciable investment
17 commonly utilized in the dairy industry.

18 G. For purposes of this section, an agricultural commodity
19 shall be deemed to be produced within this state if it is
20 substantially produced, by any person, partnership, company,
21 association or corporation:

22 1. Authorized to do and doing business under the laws of this
23 state;

1 2. Paying all taxes duly assessed; and
2 3. Domiciled within this state by having a location of
3 production within this state.

4 SECTION 2. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2327.25A of Title 68, unless
6 there is created a duplication in numbering, reads as follows:

7 No recreational activities group as described in Section 1 of
8 this act can receive more than fifteen percent (15%) of the tax
9 credits allowed under this act.

10 SECTION 3. This act shall become effective January 1, 2006.

11 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-22-05 - DO PASS,
12 As Amended and Coauthored.